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Jan 18 2024

SC Court of Appeals

The Clerk of Court
Court of Appeals
1220 Senate Street
Columbia, SC 29201

Opinion No. 5992

Ms. Kitchings:

On or about November 1, 2023 I did write you a letter requesting a mandate to release funds held in escrow for Bond to stay ejection being held by the magistrate's office and Respondent's attorney. I never received a response from you. I received a deficiency letter for a motion fee in which I did forward to the court. My understanding is that the fee was received. I am not clear on why that was necessary. It is my understanding that the issuance of a mandate is the clerk's responsibility. I have since filed an official motion and still have not gotten any response. It is clear that the return of funds are due me. The Respondent have not asked for or made a motion to stay the opinion and time has expired to do so. It is very unsettling why I have not gotten a response. I am requesting that you issue an accelerated mandate because these funds are being held unlawfully. Please find attached documentation.

January 17, 2024


Rufus Rivers

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Jan 18 2024

SC Court of Appeals

November 1, 2023

Clerk of Court
P.O. Box 11629
Columbia, SC 29211

RE: Case No. 2020-000451 Request for Mandate to release funds held in escrow

To: The Clerk

I have recently requested a mandate regarding the above-referenced matter. I received a deficiency letter for failure to pay the motion fee. Is it necessary for me to file a motion and pay a fee for something that should have already been provided? Pursuant to Rule 41, the mandate should have already been sent after time had expired after the opinion was issued except for Respondent's request for rehearing which automatically stayed the opinion. However, the rehearing was denied 07/21/2023. The Respondent has now filed a writ of certiorari with the Supreme Court which required Respondent to file a motion to stay the opinion within the allotted time after the denial if he desired to stay the opinion. Respondent, through his attorney have not taken any steps to stay the opinion and time has expired to do so. It has now been over 120 days since the denial for rehearing was issued. Please advise if the mandate is ready for issuance. If so, could you please accelerate the issuance of the mandate.

Respectfully yours,

Rufus Rivers, pro se

Merle Rivers, pro se

P.S. We apologize for filing the previous request where it appeared to be a motion, however, that was not my intention.

RECEIVED
Nov 27 2023
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
Case No. 2018-CP-38-01339

Rufus Rivers and Merle Rivers, pro se.....Appellants

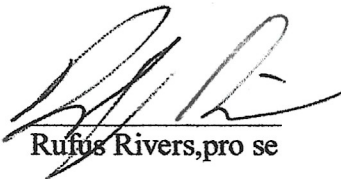
V.

James Smith, Jr.....Respondent

PROOF OF SERVICE

We hereby certify that a copy of Rufus Rivers and Merle Rivers' Request for Mandate to Release Funds held in Escrow was served on James Smith, Jr. through his attorney of Record, Kathleen McDaniel, Esq., email and her last known address P. O. Box 1929 Columbia, South Carolina 29202 by depositing same in the U.S. Mail in an envelope with proper postage affixed.

November 22, 2023


Rufus Rivers, pro se


Merle Rivers, pro se

RECEIVED
Nov 27 2023
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar W. Dickson, Circuit Judge

Case No. 2018-CP-38-01339
Appellate Case No. 2020-000451

Rufus Rivers and Merle Rivers, pro se.....Appellants

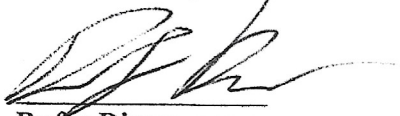
V.

James Smith, Jr.....Respondent

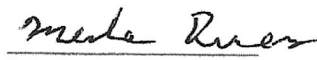
REQUEST FOR MANDATE TO RELEASE FUNDS IN ESCROW

On June 21, 2023, the Court of Appeals issued its Opinion in this matter. Respondent's Request for rehearing was denied July 21, 2023. Respondent never moved the court for stay of the decision. Respondent has since filed a Petition for Writ of Certiorari without making a motion for stay. Pursuant to Rule 41, Writ of Certiorari does not automatically stay the Opinion. Please issue an order releasing funds.

November 22, 2022,


Rufus Rivers, pro se

Attorney For Respondent
Kathleen McDaniel, Esq.
P. O. Box 1929
Columbia, South Carolina 29202


Merle Rivers, pro se

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Dec 08 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
Case No. 2018-CP-38-01339

Rufus Rivers and Merle Rivers, pro se.....Appellants

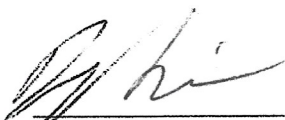
V.

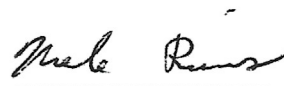
James Smith, Jr.....Respondent

PROOF OF SERVICE

We hereby certify that a copy of Rufus Rivers and Merle Rivers' Reply to James Smith, Jr.'s Return to Rufus Rivers and Merle Rivers' Request for Mandate to Release Funds held in Escrow was served on James Smith, Jr. through his attorney of Record, Kathleen McDaniel, Esq., and emailed to her last known address P. O. Box 1929 Columbia, South Carolina 29202 by depositing same in the U.S. Mail in an envelope with proper postage affixed.

December 7, 2023


Rufus Rivers, pro se


Merle Rivers, pro se



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 08, 2023

Rufus Rivers
1429 Legrand Smoak Street
Cordova SC 29039

Merle Rivers
1429 Legrand Smoak Street
Cordova SC 29039

Re: Rufus Rivers v. James Smith, Jr.
Appellate Case No. 2020-000451

Dear Mr. and Ms. Rivers:

Upon reviewing your reply to return to motion to mandate, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.
- The document has not been signed as required by Rule 267(b), SCACR.

RECEIVED
Dec 08 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar Dickson

Appellate Case No. 2025-000451

Rufus Rivers and Merle Rivers.....Appellants

VS.

James Smith, Jr.....Respondent

**REPLY TO JAMES SMITH JR'S RETURN TO RUFUS AND MERLE RIVERS'
REQUEST FOR MANDATE**

In response to Smith's return to Appellants' request for mandate. Smith's request for re-hearing automatically stayed the opinion. However, when it was denied, that stay was no longer valid without Respondent Smith filing a motion to stay the opinion and possibly post bond pursuant to Rule 41. The writ of certiorari petition does not automatically stay the opinion unless a motion to stay is filed within the specified period of time as outlined in Rule 41. Appellants did abide by Rule 241 and the decision was rendered by the Court of Appeals. Respondent chose to request review after the Court of Appeals decision. Respondent's counsel is unlawfully holding Appellants' escrow money. There was nothing in the Court of Appeals decision remanding the matter back to the magistrate. However, the opinion did affirm that the magistrate lacked subject matter jurisdiction. That means the funds should not have been held in escrow at all. Appellants have requested that the Clerk issue a mandate.(See attached letter).

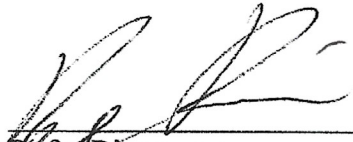
In conclusion, we are asking this court to do its duty and issue a mandate so that appellants can obtain their funds held in escrow without requesting a forensic accounting. Respondents have

recently filed a Summons and Complaint in circuit court regarding this same matter. This is unconscionable. Case no. 2023-CP-38-01749. Appellants have made request to respondent's counsel and the magistrate for the return of the funds. Appellants has also requested that the clerk of the Court of Appeals issue a mandate as the time has expired.

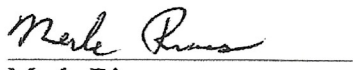
Appellants pray that this court order a mandate so that Appellants can obtain their funds held in escrow. It appears that the return of funds are being delayed for no reason. The Court of Appeals' decision should have been enough.

December 7, 2023

Attorney for Respondent
Kathleen McDaniel, Esq.
P.O. Box 1929
Columbia, South Carolina 29202



Rufus Rivers, pro se



Merle Rivers, pro se



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
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December 1, 2023

Rufus Rivers
1429 Legrand Smoak Street
Cordova SC 29039

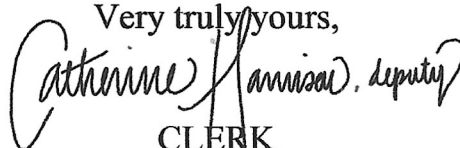
Merle Rivers
1429 Legrand Smoak Street
Cordova SC 29039

Re: Rufus Rivers v. James Smith, Jr.
Appellate Case No. 2020-000451

Dear Mr. and Ms. Rivers:

Upon reviewing your motion to mandate, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- The required filing fee has not been submitted. The correct filing fee is \$50.00.

Very truly yours,

CLERK

cc: Kathleen McColl McDaniel, Esquire
Sarah Jean Michaelis Cox, Esquire

THE FACE OF THIS DOCUMENT HAS A MULTI-TONE GREEN AND GOLD BACKGROUND

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CASH ONLY WHEN APPLIED TO ALL BANKS AND TELLERS USE FOR ENDORSER IS ASSURED.

PAY TO THE ORDER OF

****FIFTY AND 00/100 DOLLARS ****
Court of Appeals 000451



SIGNATURE

[Signature]
Purchase/Drawer Signature

1429 Legroad Smart St Columbia
Address SC 29039

THE BACK OF THIS DOCUMENT HAS A SECURITY SCREEN AND MICRO-PRINT LINE

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